

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT(s): Jussi Kuisma CONF. NO.: 5685
SERIAL NO.: 10/023,447 ART UNIT: 2142
FILING DATE: December 17, 2001 EXAMINER: Meucci,
 Michael D.
TITLE: ARRANGEMENT FOR IMPLEMENTING TRANSMISSION OF
 MULTIMEDIA MESSAGES
ATTORNEY
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Board of Patent Appeals and Interferences
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REPLY BRIEF

This is in response to the Examiner's Answer mailed on July 25,
2006.

I. ARGUMENT

1. Multimedia Messages and Email

Before addressing the Examiner's arguments, the Appellant would like to call attention to the Examiner's use of the terms and corresponding concepts of "multimedia messaging" and "email".

The terms multimedia messaging and email and their respective concepts are not the same and present clear and distinct meanings to a person skilled in the art. The definition of multimedia messaging service clearly indicates that MMS is not the same as email (Webopedia definition of MMS, second paragraph, submitted with Appellant's Brief under the Evidence Appendix as Appendix A). Contrary to a multimedia message, e-mails do not display images, text and sound in a predetermined order as a single integrated message, rather they provide media files to a user as separate attachments (Webopedia definition of MMS, second paragraph, submitted with Appellant's Brief under the Evidence Appendix as Appendix A).

Applicant's specification at page 1, lines 4-32 also makes it clear to one skilled in the art that the specification and claims are concerned with a system that is different from a conventional email system. Page 1, lines 4-32 of the specification recite:

FIELD OF THE INVENTION

The present invention relates to transferring a multimedia message in a multimedia messaging system.

BACKGROUND OF THE INVENTION

The multimedia messaging service is a communication service **under development** in which a terminal of a cellular network can send multimedia messages to another terminal. The content of a multimedia message may be e.g. a video clip, an audio clip or a combination of these. The transmission service of multimedia messages in connection with **WAP system** (Wireless Application Protocol) is defined in the standard specifications WAP-206-MmsMessagingService and WAP-209-MMSEncapsulation. In the **third-generation mobile communication networks** the multimedia messaging service is to be implemented in a similar manner. In the transmission of a multimedia message the terminal transmits the multimedia message wirelessly to a base station in the cellular network, which forwards the message to a multimedia message service centre MMSC. Having received the multimedia message, the MMSC transmits a notification message to the terminal to which the multimedia message is addressed. Having received the notification message, the terminal software decides whether to fetch the multimedia message. If the terminal (or its user) decides to fetch the multimedia message, the terminal can send a WSP GET request (Wireless Session Protocol) to the MMSC. The MMSC receive this request and transmits the multimedia message in question to the terminal. In a typical case the multimedia message is transmitted to the terminal automatically without user intervention, substantially according to the store-and-forward

transmission. The MMSC, however, sends a notification message to the terminal before the multimedia message is transmitted, and the decision on whether to allow transmission of multimedia messages from the MMSC to the terminal is made at the terminal. (Emphasis added).

1. Claims 1, 9, 10, 12, 14 and 15

Claim 1 recites, transferring a multimedia message in a multimedia messaging system, transmitting a first message wirelessly from the terminal to the multimedia messaging centre, the first message requesting the multimedia messaging centre to transmit a notification message to the terminal for multimedia messages addressed to the terminal, that have arrived at the multimedia messaging centre and for which the terminal has not received a notification message yet. The first message of claim 1 includes an option to define a selection criterion so as to limit information to be sent in response to said first message. Contrary to the Examiner's arguments, this is not disclosed by the combination of 3GPP and Zahariev.

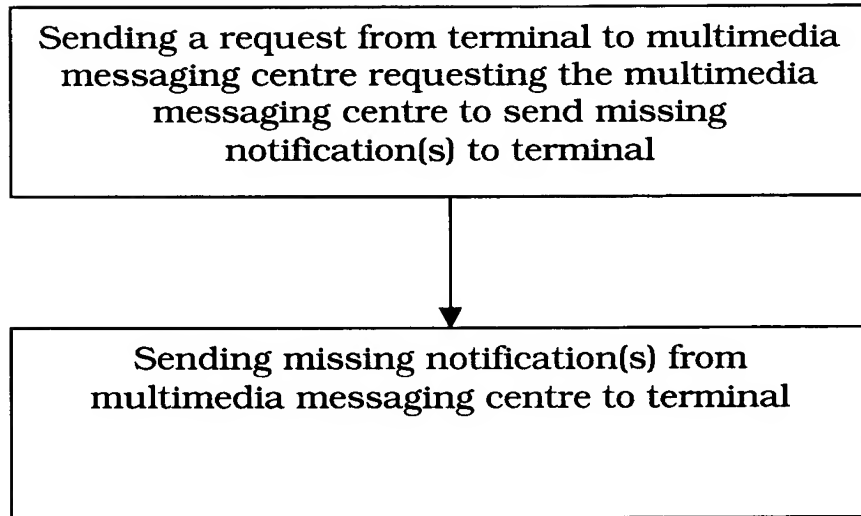
On page 3 through page 4 of the Examiner's Answer the Examiner states that "3GPP does not explicitly teach: wherein said first message comprises an option to define a selection criterion so as to limit information to be sent in response to said first message." The Examiner goes on to argue that Zahariev discloses "[t]he here-presented system provides an ability to selectively filter information based on e-mail, and to notify a subscriber of availability of such selected information, giving the subscriber an option to have the message forwarded either by e-mail or fax to a specific location," (line 64 of column 3

through line 1 of column 4) and that "[i]t would have been obvious to one of ordinary skill in the art at the time of the appellant's invention to have the first message comprise an option to define a selection criterion so as to limit information to be sent in response to said first message." (Emphasis added).

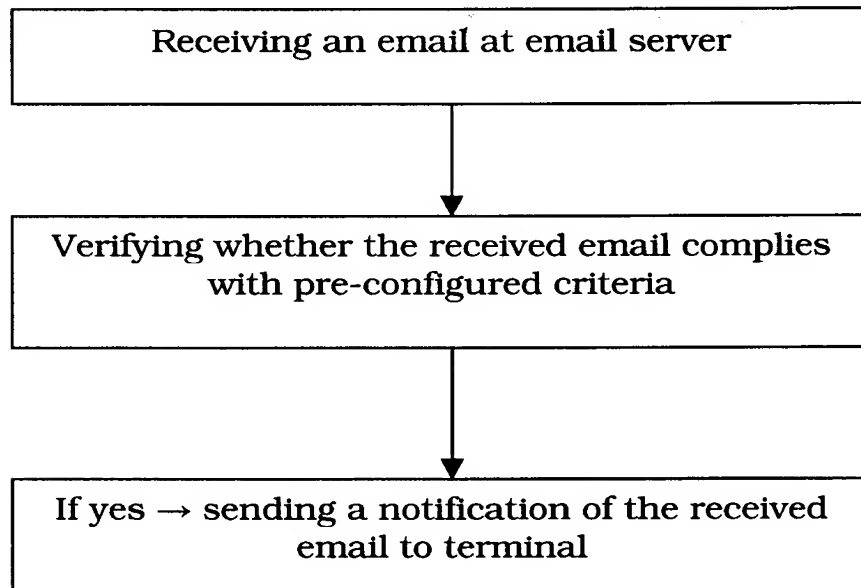
The first message of Appellant's claim 1 is used to request missing notifications from the multimedia messaging centre. The above cited passage of Zahariev (i.e. line 64 of column 3 through line 1 of column 4) does not disclose or suggest the first message including an option to define a selection criterion so as to limit information to be sent in response to the first message as called for in claim 1. To the contrary, column 3, line 64 through column 4, line 1 of Zahariev merely discloses sending notifications based on some pre-configured criteria (i.e. the "selected information"). Nowhere does Zahariev disclose or suggest a "first message requesting the multimedia messaging centre to transmit a notification message to the terminal for multimedia messages addressed to the terminal, that have arrived at the multimedia messaging centre and for which the terminal has not received a notification message yet". A user of the system in Zahariev simply cannot define selection criteria for a message that would be used to request notifications because the system of Zahariev simply does not send such a request message.

To emphasise the distinction between Appellant's claims and Zahariev and the fact that there is no "first message" in Zahariev, a comparison between the features of e.g. claim 1 and Zahariev are presented in the following flow charts for clarity.

Claim 1:



Zahariev:



As can be clearly seen in the flow charts, Zahariev does not have a "first message" sent from the terminal to the "email

server" which would request transmission of missing notifications.

In addition, the Examiner seems to be incorrectly equating the selective filtering of information in Zahariev with the request to send missing notifications as claimed by Appellant. The selective filtering and sending of information in Zahariev would lead to a situation where the terminal becomes unaware of many emails received at the email server. The purpose of Appellant's claims is exactly the opposite. As claimed by Appellant, by requesting missing notifications the terminal can actually receive the notifications which the terminal has not yet received. It is further noted that requesting to send notifications for which the terminal has not received a notification message means that only those messages for which notification has not been received can be requested. Zahariev simply does not address these issues. Zahariev only sends information pertaining to the selectively filtered emails.

The second passage of Zahariev (Col. 4, L. 8-14) cited by the Examiner in support of the rejection of the claims also fails to disclose or suggest a "first message" as recited in Appellant's claim 1.

Column 4, lines 8-14 of Zahariev recite "[o]nce a message is received that matches the criteria, the subscriber will receive a page that could look like: MsgID=1234, Filter1. The subscriber then can call the Auto Attendant and identify himself with Customer ID and password, upon which he will be prompted to enter the message ID. Next he can select means of delivery, like e-mail or fax, and then enter numbers or addresses, or select one of a limited set of preprogrammed numbers or

addresses." The Examiner argues that based on this cited passage "one of ordinary skill in the art at the time of the appellant's invention would have been motivated to have the first message comprise an option to define a selection criterion so as to limit information to be sent in response to said first message in the system as taught by 3GPP.

Nowhere does column 4, lines 8-14 of Zahariev disclose or suggest a "first message" for requesting the transmission of notifications as recited in claim 1. Column 4, lines 8-14 of Zahariev are merely concerned with requesting delivery of a received email after notification of that email has been received according to the selectively filtered information.

Neither 3GPP nor Zahariev, individually or in combination, disclose or suggest presenting an option in the first message to define a selection criterion so as to limit information to be sent in response to the first message as recited in Appellant's claim 1. Thus, claim 1 is patentable over the combination of 3GPP and Zahariev. Claims 9, 10 and 15 are patentable over the combination of 3GPP and Zahariev for reasons similar to those described above with respect to claim 1. Claims 12 and 14 are patentable at least by reason of their respective dependencies.

Furthermore, in rejecting the claims, the Examiner seems to be misinterpreting the term "multimedia message" to include the conventional emails of Zahariev which one skilled in the art would not due as multimedia messages and emails are clearly different types of communications as evidenced by the above cited definitions of "multimedia message" and "email" and Appellant's specification.

Zahariev and 3GPP clearly have different fields of endeavour and cannot be properly combined. 3GPP is concerned with multimedia messaging services. Zahariev is only concerned with conventional email and determining if a notification concerning a received email should be sent to a subscriber. Zahariev is not at all concerned with multimedia messages.

In addition, there is no motivation to combine Zahariev with 3GPP because Zahariev simply does not apply to "multimedia messages". One skilled in the art simply would not look to the conventional email delivery system of Zahariev to modify 3GPP to arrive at the method of transferring a multimedia message claimed by Appellant.

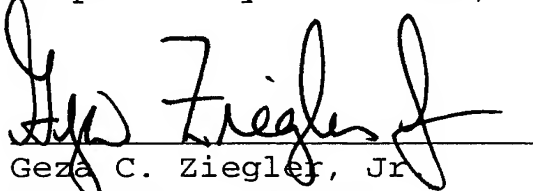
Neither 3GPP nor Zahariev mention the problem with which Applicant is concerned (i.e. retrieving missing notifications for multimedia messages). 3GPP is only concerned with requesting notifications on the whole content of the multimedia message storage and does not recognise or address the failure of sending or receiving notifications. Zahariev simply does not address multimedia messaging.

Even if 3GPP and Zahariev were combined the combination would not be what is claimed by Appellant. The combination of 3GPP and Zahariev would result in the multimedia messaging service relay/server (as taught by 3GPP) deciding to send a notification message concerning a newly received message based on pre-configured criteria (as taught by Zahariev). This combination would result in the terminal not being notified of numerous messages due to the selective filtering. This is the problem solved by Appellant, e.g. requesting, from the terminal, that the multimedia messaging centre transmit the missing

notifications to the terminal. Thus, there is no motivation to combine 3GPP with Zahariev.

The Commissioner is hereby authorized to charge payment for any additional fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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